

United States District Court

EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA

vs.

JAMES SCOTT HARRELL

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Case No. 4:04cr129
(Judge Crone)

REPORT AND RECOMMENDATION **OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Judge referred the matter to this Court for a report and recommendation, the Court conducted a hearing on July 24, 2009, to determine whether Defendant violated his supervised release. Defendant was represented by Denise Benson. The Government was represented by Maureen Smith.

On July 1, 2005, Defendant was sentenced by the Honorable Paul Brown to forty-six (46) months' custody followed by three (3) years of supervised release for the offense of Felon in Possession of a Firearm. On December 28, 2007, Defendant completed his period of imprisonment and began service of his supervised term.

On February 11, 2008, the U.S. Pretrial Services Officer filed a Petition for Warrant for Offender Under Supervision. The petition asserted that Defendant violated the following mandatory condition: (1) the defendant must report to the probation office in the district to which the defendant is released within seventy-two (72) hours of release from the custody of the Bureau of Prisons. The petition also alleged a violation of the following standard conditions: (1) the defendant shall notify the probation officer at least ten days prior to any change of residence or employment.

The petition alleges that Defendant committed the following acts with regard to the mandatory condition: (1) the defendant was released from the custody of the Bureau of Prisoner on

December 28, 2007; however, he failed to report to the probation office in the Southern District of Mississippi, Jackson Division. Defendant left a voice mail and a contact number at the probation office, but the officer has not been able to contact the defendant at the phone number provided. The petition also alleges that Defendant committed the following acts with regard to the standard conditions: (1) that defendant never reported to the approved address upon his release from the Bureau of Prisons.

Prior to the Government putting on its case, Defendant entered a plea of true to all of the violations. The Court recommends that Defendant's supervised release be revoked.

RECOMMENDATION

The Court recommends that the District Judge revoke Defendant's supervised release. The Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of twelve (12) months and one (1) day followed by twenty-four (24) months of supervised release. The Court recommends that Defendant be housed in FCI Oakdale Louisiana facility. After the Court announced the recommended sentence, Defendant executed the consent to revocation of supervised release and waiver of right to be present and speak at sentencing. The parties also waived the ten (10) day period for objections.

SIGNED this 24th day of July, 2009.


AMOS L. MAZZANT
UNITED STATES MAGISTRATE JUDGE